
By: **Delegates Morhaim, Boutin, Goldwater, Hammen, Hubbard, Hurson,
Nathan-Pulliam, Oaks, Pendergrass, Redmer, and Rosenberg**

Introduced and read first time: January 29, 2003

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2003

CHAPTER _____

1 AN ACT concerning

2 ~~Maryland Medical Assistance Program – Eligibility Requirements – Advance~~
3 ~~Directives~~
4 ~~Task Force to Study Increasing the Completion and Use of Advance~~
5 ~~Directives~~

6 FOR the purpose of establishing the Task Force to Study Increasing the Completion
7 and Use of Advance Directives; providing for the membership of the Task Force;
8 providing for the staffing of the Task Force; requiring the Governor to designate
9 the chairman of the Task Force; providing that a member of the Task Force may
10 receive certain reimbursement as provided in the State budget; requiring the
11 Task Force to study certain issues and make certain recommendations;
12 requiring the Task Force to make certain reports by certain dates; providing for
13 the termination of this Act; and generally relating to the Task Force to Study
14 Increasing the Completion and Use of Advance Directives.

15 ~~FOR the purpose of requiring an applicant for benefits under the Maryland Medical~~
16 ~~Assistance Program, as a condition of eligibility under the Program, to complete~~
17 ~~and sign certain advance directives or to sign a form stating that the applicant~~
18 ~~declines to complete and sign the advance directives; requiring the Department~~
19 ~~of Health and Mental Hygiene to ensure that a copy of each advance directive~~
20 ~~completed and signed by an applicant is given to the applicant, maintained in~~
21 ~~the applicant's records, and made available to certain providers of services;~~
22 ~~requiring the Department to adopt certain regulations on or before a certain~~
23 ~~date; providing for the application of this Act; and generally relating to~~
24 ~~eligibility requirements under the Maryland Medical Assistance Program.~~

25 ~~BY adding to~~

1 ~~Article—Health—General~~
 2 ~~Section 15-109(g)~~
 3 ~~Annotated Code of Maryland~~
 4 ~~(2000 Replacement Volume and 2002 Supplement)~~

5 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 6 ~~MARYLAND, That the Laws of Maryland read as follows:~~

7 ~~Article—Health—General~~

8 ~~15-109.~~

9 ~~(G) (1) AS A CONDITION OF ELIGIBILITY UNDER THE PROGRAM, AN~~
 10 ~~APPLICANT FOR BENEFITS SHALL:~~

11 ~~(I) COMPLETE AND SIGN EACH OF THE ADVANCE DIRECTIVES~~
 12 ~~DESCRIBED IN § 5-603 OF THIS ARTICLE, IN ACCORDANCE WITH THE PROVISIONS OF~~
 13 ~~TITLE 5, SUBTITLE 6 OF THIS ARTICLE; OR~~

14 ~~(II) SIGN A FORM STATING THAT THE APPLICANT DECLINES TO~~
 15 ~~COMPLETE AND SIGN EACH OF THE ADVANCE DIRECTIVES.~~

16 ~~(2) THE DEPARTMENT SHALL ENSURE THAT A COPY OF EACH ADVANCE~~
 17 ~~DIRECTIVE COMPLETED AND SIGNED BY AN APPLICANT UNDER PARAGRAPH (1)(I) OF~~
 18 ~~THIS SUBSECTION IS:~~

19 ~~(I) GIVEN TO THE APPLICANT;~~

20 ~~(II) MAINTAINED IN THE APPLICANT'S RECORDS; AND~~

21 ~~(III) MADE AVAILABLE, ON REQUEST, TO ANY PROVIDER OF~~
 22 ~~SERVICES TO PROGRAM RECIPIENTS.~~

23 ~~(3) (I) THE DEPARTMENT SHALL ADOPT REGULATIONS TO~~
 24 ~~IMPLEMENT THIS SUBSECTION.~~

25 ~~(II) THE REGULATIONS SHALL INCLUDE THE ADVANCE DIRECTIVE~~
 26 ~~AND DECLINATION FORMS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

27 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Department of~~
 28 ~~Health and Mental Hygiene shall adopt any regulations required under § 15-109(g) of~~
 29 ~~the Health—General Article, as enacted by Section 1 of this Act, on or before January~~
 30 ~~1, 2004.~~

31 ~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall~~
 32 ~~apply to individuals applying for benefits under the Maryland Medical Assistance~~
 33 ~~Program on or after January 1, 2004.~~

34 ~~SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
 35 ~~July 1, 2003.~~

1 WHEREAS, Advance Directives have been an established part of Maryland law
2 for over 10 years; and

3 WHEREAS, The use of Advance Directives leads to more humane,
4 compassionate, patient-directed, and cost-effective care; and

5 WHEREAS, Many Marylanders do not complete Advance Directive forms
6 despite various efforts to make them available; now, therefore,

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That:

9 (a) There is a Task Force to Study Increasing the Completion and Use of
10 Advance Directives.

11 (b) The Task Force consists of the following members:

12 (1) one member of the Senate of Maryland, appointed by the President of
13 the Senate;

14 (2) one member of the House of Delegates, appointed by the Speaker of
15 the House;

16 (3) the Secretary of Health and Mental Hygiene, or the Secretary's
17 designee;

18 (4) the Secretary of Aging, or the Secretary's designee;

19 (5) the Secretary of Human Resources, or the Secretary's designee;

20 (6) the Attorney General, or the Attorney General's designee; and

21 (7) the following nine members, appointed by the Governor:

22 (i) one representative from the Maryland Medicaid Advisory
23 Committee;

24 (ii) one representative from the Maryland Hospital Association;

25 (iii) one representative from the Mental Health Association of
26 Maryland;

27 (iv) one representative from the Maryland Nurses Association;

28 (v) one representative from the Maryland Interfaith Legislative
29 Committee;

30 (vi) one representative of the commercial health insurance industry;

31 (vii) one representative of a managed care organization;

- 1 (viii) one representative of the nursing home industry; and
- 2 (ix) one representative of the hospice industry.
- 3 (c) The Governor shall designate the chairman of the Task Force.
- 4 (d) The Office of the Attorney General shall provide staff for the Task Force.
- 5 (e) A member of the Task Force:
- 6 (1) may not receive compensation; but
- 7 (2) is entitled to reimbursement for expenses under the Standard State
- 8 Travel Regulations, as provided in the State budget.
- 9 (f) The Task Force shall study and make recommendations on:
- 10 (1) methods to increase the completion rate of Advance Directives;
- 11 (2) barriers to obtaining and completing Advance Directives;
- 12 (3) problems in gaining recognition and acknowledgment of Advance
- 13 Directives;
- 14 (4) problems related to the completion and use of Advance Directives:
- 15 (i) by mentally ill individuals;
- 16 (ii) by developmentally disabled individuals;
- 17 (iii) by individuals experiencing dementia; and
- 18 (iv) in guardianship cases;
- 19 (5) the role of a surrogate decision maker in the completion of an
- 20 Advance Directive; and
- 21 (6) compliance with federal and State law related to Advance Directives.
- 22 (g) The Task Force shall report on its findings and recommendations in an
- 23 interim report no later than December 31, 2003 and, in accordance with § 2-1246 of
- 24 the State Government Article, a final report to the Governor and the General
- 25 Assembly no later than December 31, 2004.
- 26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 27 effect June 1, 2003. It shall remain effective for a period of 1 year and 7 months and,
- 28 at the end of December 31, 2004, with no further action required by the General
- 29 Assembly, this Act shall be abrogated and of no further force and effect.

